

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Kevin Everson, :
: Case No. 1:05-CV-0087
Plaintiff, :
v. : District Judge Susan J. Dlott
: :
Sheriff Simon Leis, et al., : ORDER REOPENING DISCOVERY
: :
Defendants. :

This matter comes before the Court on Defendants Simon Leis' and Albert Wittich's Motion for Summary Judgment (doc. 21) and Plaintiff's limited response thereto (doc. 35). Citing Fed. R. Civ. P. 56(f), Plaintiff requests that the Court reopen discovery for a limited period so that he may engage in meaningful discovery prior to responding in full to Defendants' motion for summary judgment. For the reasons that follow, the Court grants Plaintiff's request.

This case has seen numerous delays due almost entirely to the extraordinary personal circumstances faced by Plaintiff's original counsel. (See doc. 28, doc. 33.) In April, 2007, the Court granted Plaintiff's original counsel's motion to withdraw (doc. 32) and gave Plaintiff a period of time to retain new counsel. On May 29, 2007, Attorney Alphonse Gerhardstein filed notice of appearance as counsel for Plaintiff. The Court subsequently held a status conference, during which time Plaintiff's current counsel advised the Court that previous counsel did little to no discovery on behalf of Plaintiff. Shortly after that conference, Plaintiff's counsel filed a response to Defendants' motion for summary judgment, requesting additional time to engage in discovery under Rule 56(f).

Denying Plaintiff's request would unduly penalize him for circumstances entirely outside

of his control. Accordingly, the Court **ORDERS** that the discovery period be reopened for a period of ninety (90) days from the date of this order. The Court further **ORDERS** Plaintiff to file a second response to Defendants' motion for summary judgment by Friday, February 15, 2008. Defendants are ordered to file a reply by Friday March 7, 2008. Finally, the Court hereby **VACATES** both the Final Pretrial Conference in this case previously set for November 7, 2007, and the Trial previously set for December 10, 2007.

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge

For the purposes of issuing this order, the file can be found at:

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